



12-05-05

zfw

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/785,388 Confirmation No.: 6576  
Applicant : Leatherbury et al.  
Filed : 02/23/2004  
Art Unit : 3733  
Examiner : Kim, John  
For : BONE AND CARTILAGE IMPLANT DELIVERY DEVICE  
Docket No. : 121-02  
Customer No. : 23713

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as EXPRESS MAIL in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

2 December 2005

B. Kroge

Date

B. Kroge

Express Mail Receipt No: EV 693 372 198 US

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated November 2, 2005, please enter the following response.

The Examiner has divided the claims into three groups and requires an election of one of the groups. Groups I, II and III are defined below.

- I. Claims 1-10, 21-27 and 29 drawn to an implant delivery device/system.
- II. Claims 11-15 and 28 drawn to a cutting device.
- III. Claims 16-20 drawn to an implant capsule loader.

Applicants elect prosecution of Group I (claims 1-10, 21-27 and 29 drawn to an implant delivery device/system) with traverse. The devices of Groups I, II and III share

functional and structural features. For example, the cutting device in Group II is specifically designed to accommodate the delivery device of Group I. The capsule loader of Group III is similarly specifically designed to attach to the delivery device of Group I. In view of the relatedness of the devices of the groups, a search of all three groups of claims does not represent an undue search burden upon the Office. Applicants submit that all of Claims 1-29 should be considered in the same application.

In addition, the Examiner has determined there are four species of the implant delivery device presented and requires an election of a single species for prosecution on the merits. Applicants elect the species in group A, as depicted in figures 1-3.

Applicants believe the following claims read upon the elected species: claims 1-5, 8, 24-29.

#### Conclusion

It is believed no fees are required with this Response. If this is incorrect, please credit any overpayment or deduct any deficiency from deposit account 07-1969.

Respectfully submitted,



Michael J. Curtis  
Reg. No. 54,053

GREENLEE, WINNER AND SULLIVAN, P.C.  
4875 Pearl East Circle, Suite 200  
Boulder, CO 80301  
Telephone (303) 499-8080  
Facsimile: (303) 499-8089  
Email: [winner@greenwin.com](mailto:winner@greenwin.com)

Attorney Docket No.: 121-02  
bmk: December 2, 2005